



CHARITY COMMISSION
FOR ENGLAND AND WALES

COMPLIANCE TOOLKIT: PROTECTING CHARITIES FROM HARM

Chapter 4: Holding, moving and receiving funds safely in the UK and internationally - summary



All charities need money or financial assistance of some kind to carry out their work. They may receive money from donors and sponsors, from fundraising activities, from membership subscriptions or from charging for their charitable services. They spend money in a variety of ways, for example on running the organisation, on charitable projects to help beneficiaries and by giving grants to other charities and organisations. Charities which work internationally often move money across international borders and spend it in other countries, encountering different financial systems and needing to use different currencies.

Most countries in the world have formal banking systems in place. Using such systems is a prudent and responsible way to ensure that charity funds are safeguarded, and that there are appropriate audit trails of the sort which trustees must keep for the receipt and use of money. This chapter explains the need for charities to have and use bank accounts; what trustees' duties are when using the banking system; and the particular issues which arise in connection with exchanging sterling for other currencies.

However, charities may need to use and work in cash to some degree, some charities more than others. Charities may need to use alternative financial systems to hold or move the charity's money, or when spending it in furtherance of the charity's purposes, although these are more inherently risky than using formal banking systems. These include Money Service Businesses, agents using alternative remittance systems, Payment Services, cash couriers, or even other charities and NGOs. This guidance provides advice to trustees about what things they need to consider if they have to use these alternative methods, and considers the various ways in which funds can be transferred in circumstances where the use of banking facilities may not be possible.

We also give advice on risk management factors trustees need to consider when these methods are used and guidance on the sort of financial controls which may be appropriate.

We provide a number of practical Tools that trustees can use to help manage the risks and protect their charity's funds from harm.

What are trustees' legal duties and responsibilities?

Whatever the charity's activities, all charity trustees are under legal duties to safeguard the charity's money and assets and to act prudently. Trustees also have a duty to avoid undertaking activities that may place their funds, assets or reputation at undue risk.

This means that when receiving, holding and moving funds, trustees need to ensure they take proper care to ensure the charity's money is held safely, not placed at undue risk and reaches the intended destination for the purposes intended.

As part of their duty of care, trustees must also ensure that they use reasonable care and skill when making decisions about financial procedures including movement and use of money. The greater the risks, the more important it is that trustees can show that they have discharged their duty of care.

Ensuring strong financial management procedures and proper internal controls, and applying a common sense approach, will help trustees meet their duties. They also need to promote the transparency and accountability of their charity, particularly as regards its finances, which is so important for public trust and confidence in charities.

What is the purpose of this chapter?

The purpose of the chapter is to remind charity trustees of their legal duties and responsibilities in respect of holding, moving and receiving funds safely, including when moving those funds internationally, and to help them with practical advice and guidance to ensure they properly discharge those duties.

Who should read this guidance?

This chapter is primarily intended for trustees and other relevant people in their charity. Trustees' duties apply when the charity receives, holds, moves or uses money. For some charities there may be a limited number of these transactions, for others there may be tens of thousands. We hope this guidance, particularly the Tools, will be of use to smaller and medium sized charities and also to those charities which may need to use methods other than the formal banking system, because of the nature of their activities, the communities they serve or the location of their operations.

The guidance may also be useful to a charity's professional or other advisers who provide advice on what measures and controls a charity needs to have in place. A charity's partners, intermediaries and providers of financial services may find it helpful to know what the trustees' responsibilities are under charity law, so they understand what a charity may be asking of them and any requirements they have.

What does the guidance contain?

1. Using the banking system

Charity trustees have a legal duty to protect their charity's funds and ensure that they are used for the charity's proper purposes. Good financial stewardship, including having appropriate banking arrangements, is a vital element of good governance. It is difficult to see, where regulated banking services are available, how trustees could show they discharged this duty if they did not use them in order to ensure the charity's funds were secure.

In order to operate effectively and transparently when delivering aid or undertaking charitable work, every charity must have access to formal banking facilities.

When they use banking systems they should choose only those organisations which are legally entitled to operate and offer such services. In the UK those organisations have to be 'authorised' and are usually authorised and regulated by the Financial Services Authority.

The Commission would have serious concerns if a charity were not able to operate because of a lack of banking services. If these services are declined or withdrawn from a charity, harm could result to the effective delivery of its charitable work and its ability to operate transparently. It could also have an adverse impact on public trust and confidence in that charity and on charity generally. It may also have a wider impact upon the community that the charity works with or represents.

2. Operating bank accounts

Having a bank account is an integral and indispensable element of a prudent and responsible financial management system.

It is for the charity to decide which bank or other financial organisation it chooses to hold its account with. However, trustees should, in acting in the best interests of the charity, ensure that the banking arrangements they choose for their charity, and the appropriate and proportionate levels of checks that are built into them, meet the charity's needs and help it to deliver services effectively.

Trustees must follow any relevant clause in the charity's governing document that specifies who is authorised to sign cheques and authorise expenditure. If there is no such provision, the bank mandate must specify at least two trustees as signatories, unless the trustees can reasonably claim that it is necessary for employees to sign cheques to allow the charity to operate.

It is up to trustees to decide, as a matter of policy, how many accounts they have. There are benefits and disadvantages in holding more than one account. Trustees should ensure that their charity has the number and types of accounts which are appropriate to its needs.

Charities should consider using banks which operate accounts that are specifically designed for charities.

Where charities are operating internationally or in complex environments, there may be a need to have non-UK bank accounts in countries where charitable services are to be delivered. But trustees still need to be in complete control of such accounts. This may require additional financial reporting and additional risk management procedures.

3. Operating bank accounts - what financial controls should be used?

Modern banking systems are generally highly sophisticated and reliable, but this does not mean that the banking system is entirely risk-free and that trustees can simply assume that charitable funds held in a bank account will always be secure. Apart from the risk of loss caused by honest mistake or lack of attention to procedures, trustees should be aware that charities, like other organisations, are vulnerable to fraudulent activity.

Financial controls over cash held in bank and building society current accounts and deposit accounts are important as they provide assurance about the security of cash holdings, and ensure that the amount of cash held, at any one point in time, can be identified.

Trustees must ensure that they exercise full supervisory control over their charity's bank accounts. In practice, this means the trustees of smaller charities will need to do so personally. For larger charities, they may need to delegate day to day supervision and control to a member of staff. If they do this, they need to ensure that the member of staff is properly supervised; that the trustees receive regular reports; and that arrangements are in place for them to inspect banking records.

Trustees must consider what practical controls need to be in place in order to protect funds held in bank accounts, in particular with respect to payments by cheques, debit cards, credit cards, charge cards, direct debits, standing orders and Bacs direct debit; and in relation to electronic banking.

Individuals who are unconnected to a charity must not be given signatory rights to the charity's bank accounts. It would be a breach of trustees' duty of care if they allowed a third party to access the charity property as they would be unable to safeguard its application for the purposes of the charity.

Charities should not allow the opening of any account in the name of a charity, or an account which receives their charitable funds, if it is owned or controlled by a third party. Where, for example, funds are raised for the charity by third parties, they should be deposited in accounts which are in the charity's name and controlled by the charity.

We recommend that:

- bank reconciliations are prepared at least monthly for all accounts, reviewed by a second person and any discrepancies resolved
- a list of all its bank accounts is kept and reviewed for dormant accounts which should be closed
- the opening or closing of accounts should either be authorised by the whole trustee body, or if delegated, the trustees should be informed of changes

- third parties should not be allowed to open bank accounts in the charity's name, or use the charity's bank account to receive or transfer money
- the costs and benefits of the current and deposit accounts held are regularly reviewed to ensure bank charges and/or rate of interest are competitive and that the credit rating of the institution is acceptable
- for internet banking, a dual authorisation system is used

4. Exchanging foreign currency

Charities may use their own banks, or registered Money Service Businesses (including bureaux de change), in order to exchange sterling for other currencies (or vice versa).

In order to discharge their legal duties, trustees need to ensure they consider a range of factors when using these services, including checking that the institutions they use are legitimate and authorised to operate or are registered with the appropriate agency (such as HMRC or the Financial Conduct Authority); the cost of making the transactions and the exchange rate risks.

Trustees should ensure, as with any other financial transaction, that adequate financial controls are in place. Transactions should be properly authorised, and properly recorded and documented with the use of receipts and other records; and there should be regular budget monitoring, including a review of foreign exchange gains and losses. In turn, this analysis should be taken into account when considering and planning future project activities.

5. Donations from, and payments to, sources outside the UK

Depending on the circumstances, and applying the charity's risk management processes, trustees will need to take care, and may need to take extra steps, in identifying, verifying, and handling donations received from sources outside the UK; and in applying money outside the UK.

Whilst trustees can accept anonymous donations, trustees should be able to identify and be assured of substantial donations. Good due diligence helps assess the risks, ensures it is appropriate to accept the money and gives assurance the donation is not from any illegal or inappropriate source.

If a charity, as part of its work, is moving money to an organisation overseas, including charities or NGOs, then it should try to do so by way of electronic bank transfer to a bank account held in the name of the organisation. Payments will usually go through international bank clearing systems.

However, in some countries banking services will not be common and business may be conducted in cash or using alternative systems. This may impact on a charity's ability to transfer money to that country for use there, and/or it may affect the charity's ability to fund activities or give aid to beneficiaries. Even if a country does have banking services, the regulation and reliability of those services will differ from country to country.

These factors need to be taken into account by trustees of charities, and in some cases additional safeguards such as specific transaction monitoring, to ensure the money has reached its intended destination, may be required.

The Finance Act 2010 states that charities' expenditure overseas could be considered non-charitable and therefore liable for tax if organisations do not take the steps HMRC considers are reasonable to ensure that the funds were used for charitable purposes. If a charity cannot provide evidence that it took the necessary steps, the expenditure may be deemed non-charitable and tax exemptions would be restricted accordingly.

6. Using and transacting in cash

If formal banking facilities are available it is difficult to see how cash transfers, with all their inherent risks, are compatible with the duty on trustees to protect their charity's funds and ensure that they are used for the charity's proper purposes. This may be challenging for charities operating in certain countries. There may be some areas that do not allow for any other methods of moving funds, for example in an area of conflict where no formal banking system is operating. The Commission strongly advises trustees, their employees, volunteers and agents against moving significant amounts of cash from one location to another on their person or in personal luggage. This could involve an unacceptably high degree of personal and financial risk.

Payments in cash should be kept to a minimum due to the greater risk that handling cash presents, and the difficulties that can arise in establishing clarity and control over significant cash transactions. For more significant or regular amounts trustees need to be sure this is justified in particular or exceptional circumstances; and that consideration has been given to appropriate controls and the regulatory framework in the UK and elsewhere.

There are particular requirements to declare cash to HMRC when leaving or entering the UK, currently above a threshold of 10,000 euros. Details of how to declare to HMRC are set out on [GOV.UK](https://www.gov.uk).

7. Cash transfers - what financial controls should be used?

Given the safeguards that are already in place, charities should use the banking system where possible. However, where a charity needs to make payments in cash we recommend that:

- cash payments are for small amounts only
- cash should be paid out of a petty cash float specifically kept for such payments, and not from incoming cash
- details of payments should be entered in a petty cash book
- supporting documentation for the cash payment should be authorised by someone other than the person who maintains the petty cash or the person making the payment
- the balance of petty cash in hand, and the records, should be kept securely
- regular spot checks of the petty cash float should be made by an authorised person independent of the person who maintains the petty cash

Trustees must make sure that full records of receipt are made and kept and they take appropriate steps to ensure who they are paying the cash to is legitimate, and that the money will be used as intended if it is for charitable use.

8. Using cash couriers

There is no rule which states that charities cannot use them in principle but there are significant risks with them. The trustees need to be aware of the risks and be able to show that they have taken appropriate steps to manage those risks to the charity.

In some cases, the risks may be so high, that it means the charity trustees cannot use them without exposing the charity to undue risk and risking their own personal liability.

A significant risk for charities that use cash couriers is that this method of transfer is now recognised as a method which has been used to move funds for terrorist purposes. Cash smuggling is also one of the major methods used by terrorist financiers, money launderers and organised criminals to move money in support of their activities.

Another risk is that there is no requirement for cash couriers to be registered as a Money Service Business with HMRC, so extra care in using them is required. Charities should, as with other agents and partners, ensure that appropriate due diligence is carried out on the cash courier, and that they take reasonable steps to safeguard the money. At the very least, we would expect trustees to have agreed in writing what is expected from the agent, how much money is being carried and in what currency, when it is to arrive by, and who it is to be paid to and how at the end destination. This should be in place and agreed before the money is handed over.

9. Using intermediaries

In this guidance these are defined as organisations, used by charities to move funds, which are outside the formal banking system. In particular these are:

- Money Service Businesses - including bureaux de change and agents using alternative remittance systems, referred to as Informal Value Transfer Systems (IVTS)
- Payment services
- Cash couriers
- Other charities or NGOs

Trustees should, where possible, use the charity's banking arrangements to receive, hold and move funds, unless there are exceptional or particular circumstances. For example, some charities work in environments where the use of methods outside formal banking is common. In such cases we recognise that charities may need to use these methods if banking facilities are not available. They are, however, more inherently risky than traditional banking methods and, therefore, trustees need to ensure that these risks are mitigated and appropriate safeguards are in place.

These methods are likely to be less transparent and require greater resource and effort on the part of the charity to ensure adequate systems are in place to protect the charity, and to ensure proper records are kept to show the legitimate movement and use of charitable funds.

Trustees should ensure that funds transferred by such methods are strictly limited to meeting essential needs where conventional banking systems cannot be used and avoid, where practical, making subsequent transfers until receipt of a previous transfer can be confirmed.

In order to ensure that the charity's funds are properly safeguarded and applied in furtherance of the charity's purposes, trustees must be satisfied and, if necessary be able to show, that:

- their use of intermediaries is in the best interests of the charity
- they have considered the risks and conducted effective risk management to assess these risks (as well as the benefits and advantages) and they are satisfied that proper and adequate safeguards and controls are in place to protect the charity's funds
- particular consideration has been given to practical aspects of risk management and the general political and social context of the transactions
- all the relevant regulatory issues have been considered and addressed

10. What risk management issues should be considered when using intermediaries?

If a charity needs to use intermediaries to transfer the charity's funds the trustees should assess and manage the associated risks. In view of the range of options now available for moving funds using intermediaries, it is important that trustees consider the full range of options and make decisions based on a proper assessment of the benefits and risks associated with particular methods. It would also be prudent to seek advice from other charities working in similar geographical areas or conditions, from appropriate regulators, or from experienced people who have relevant experience in this field. Trustees should also shop around and compare the costs of various service providers including the arrangements of their own bank. The key factors for trustees to consider include:

Speed - how urgent is the proposed transaction? Would it be acceptable to allow the transaction to go through the formal banking system, possibly taking a little more time, or is there a pressing need to transfer funds through intermediaries where that is quicker?

Cost - whilst trustees should always be mindful of the cost of transactions, this is not the over-riding consideration.

Security - this is a fundamental issue for trustees who should be satisfied, through their risk management arrangements, that the proposed transaction is not putting charitable funds at any undue risk.

Financial controls - are the charity's financial controls robust enough for the use of these methods or are additional safeguards required for a particular transaction?

Regulation in the UK - the trustees must be satisfied, through appropriate checks of the registered or other status of service providers, that they are regulated, whether it is by the FSA, HMRC, or some other appropriate body.

Regulation overseas - Trustees should consider the legality of transactions, including IVTS transactions, in the destination countries for transferred funds, and as far as possible be aware of the local laws affecting these transactions.

Political and social conditions in the destination country - charities should consider the local or regional conditions of the destination country in their risk management, for example the general security of the country and its financial sector.

The international context - the very nature of IVTS makes them susceptible to money laundering and terrorist financing. In this context trustees need to be aware of the international backdrop to these issues, in particular the Financial Action Task Force's (FATF) **Special Recommendation VI Alternative Remittance** which focuses on informal money and value transfer systems, and recommends that countries should require licensing or registration of persons or legal entities providing money transfer services, including through informal systems.

11. Using intermediaries - what financial controls should be used?

In principle the appropriate controls in respect of transfers using intermediaries should match as far as possible the financial controls, record keeping and assurance systems associated with formal banking. Trustees will need to consider how the controls associated with the use of intermediaries compare with those for formal banking and ensure that parallel controls are in place before funds are remitted.

Whether transfers are made through formal banking or intermediaries, trustees must monitor such transactions, and get assurance that the funds have reached the right place and are properly applied in order to discharge their duty of care to the charity.

Trustees should consider a wide range of financial controls, risk management and assurance procedures, for example:

- Trustees should be able to demonstrate effective management and conduct when using intermediaries, including identification and management of any problems and proper decision making.
- Trustees should document and agree the policy and the circumstances when such methods may be used.
- Expenditure should be subject to the same authorisation procedures as for bank payments using formal banking.
- There is an obligation for charities to keep proper records, so an audit trail must be kept for each transaction in the chain of transactions including payment vouchers (equivalent to cheques) and post transaction documentation (equivalent to bank statements) providing details of the intermediary's name and address, amount and date of payment, and the name of the person making the payment, the fee charged and the payee. The trail should show the funds going to the intermediary from a UK bank account and evidence of collection at the final destination.
- Transaction records and receipts should be sought from those that business is conducted with and clear accounting records kept of these.
- Checks should be carried out to confirm that the funds have been received by ultimate recipient and an accounting record kept, such as an email or other notification.
- Subsequent transfers should, where practical, be avoided until receipt of a previous transfer can be confirmed.